

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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In Re: Methyl Tertiary Butyl Ether ("MTBE")
Products Liability Litigation

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88
ECF Case

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This document relates to the following case:

City of New York v. Amerada Hess Corp., et al.
Case No. 04 Civ. 3417

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**PLAINTIFF CITY OF NEW YORK'S NOTICE OF MOTION AND MOTION IN
LIMINE NO. 1 TO EXCLUDE EVIDENCE OR ARGUMENT THAT FEDERAL OR
NEW YORK LAW EVER REQUIRED MTBE IN GASOLINE DELIVERED TO OR
SOLD IN THE RGA**

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 11, 2009, at the United States Courthouse at 500 Pearl Street, New York, New York 10007, before the Hon. Shira A. Scheindlin, United States District Judge, Plaintiff the City of New York hereby moves this Court *in limine* to enter an Order as follows:

1. That Defendants shall not make reference, offer any evidence, or make any argument that federal law ever required or necessitated the use of MTBE in gasoline delivered to or sold in the RGA.¹

¹ The term "RGA" means the Relevant Geographic Area in *City of New York v. Amerada Hess Corp., et al.*, 04 Civ. 3417 (SDNY), specifically the physical area comprising United States of America ZIP code numbers 11001, 11003, 11004, 11355, 11364, 11365, 11366, 11367, 11368, 11374, 11375, 11385, 11411, 11412, 11413, 11414, 11415, 11416, 11417, 11418, 11419, 11420, 11421, 11422, 11423, 11426, 11427, 11428, 11429, 11430, 11432, 11433, 11434, 11435, 11436, 11451, 11580.

2. That Defendants shall not make reference, offer any evidence, or make any argument that New York law ever required or necessitated the use of MTBE in gasoline delivered to or sold in the RGA.

WHEREFORE, Plaintiff respectfully requests that the Court enter an Order granting the relief set forth in this Motion. In support of its Motion, Plaintiff relies upon the Memorandum of Law and the Request for Judicial Notice filed concurrently herewith, and the pleadings, records and files in this action. Plaintiff requests an oral hearing on this Motion.

Dated: San Francisco, California
May 11, 2009

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that true and correct copies of the following documents were served on Liaison Counsel via Electronic Mail, and on all counsel of record by posting them directly to CM/ECF and LexisNexis File & Serve on the 11th day of May, 2009:

- 1) PLAINTIFF CITY OF NEW YORK'S NOTICE OF MOTION AND MOTION *IN LIMINE* NO. 1 TO EXCLUDE EVIDENCE OR ARGUMENT THAT FEDERAL OR NEW YORK LAW EVER REQUIRED MTBE IN GASOLINE DELIVERED OR SOLD IN THE RGA
- 2) PLAINTIFF CITY OF NEW YORK'S MEMORANDUM OF LAW IN SUPPORT OF MOTION *IN LIMINE* NO. 1 TO EXCLUDE EVIDENCE OR ARGUMENT THAT FEDERAL OR NEW YORK LAW EVER REQUIRED MTBE IN GASOLINE DELIVERED TO OR SOLD IN THE RGA
- 3) REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PLAINTIFF CITY OF NEW YORK'S MOTION *IN LIMINE* NO. 1 TO EXCLUDE EVIDENCE OR ARGUMENT THAT FEDERAL OR NEW YORK LAW EVER REQUIRED MTBE IN GASOLINE DELIVERED TO OR SOLD IN THE RGA
- 4) [PROPOSED] ORDER GRANTING PLAINTIFF CITY OF NEW YORK'S MOTION *IN LIMINE* NO. 1 TO EXCLUDE EVIDENCE OR ARGUMENT THAT FEDERAL OR NEW YORK LAW EVER REQUIRED MTBE IN GASOLINE DELIVERED TO OR SOLD IN THE RGA



KRISTIN MEYERS